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REPORT ON QUALITATIVE RESEARCH

Implementation of Rwanda's Expropriation Law
and Outcomes on the Population

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CONTACT INFORMATION:

Anna Knox
Chief of Party
LAND Project
Nyarutarama, Kigali
Tel: +250 786 689 685
aknox@land-project.org

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IMPLEMENTATION OF RWANDA'S EXPROPRIATION LAW AND OUTCOMES ON THE POPULATION

PREPARED BY LEGAL AID FORUM

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EXECUTIVE SUMMARY

The Legal Aid Forum (“LAF”) is conducting research pursuant to funding awarded by the LAND Project in Rwanda. This award was specified for research on the status of processes and procedures for the implementation of the 2007 Expropriation Law, and an assessment of the key challenges and impacts from the implementation of the law. This document reports findings from the “qualitative research” component of the study, based on a systematic and semi-structured set of interviews with representatives of key institutions/organizations and focus groups of individuals knowledgeable about and affected by Rwanda’s expropriation law. The report will be followed in due course by the presentation and analysis of data from a national survey of expropriated households in Rwanda.

In light of the research questions under study, the research team has identified a number of specific research questions and variables to be addressed and supported primarily through qualitative research. In particular, qualitative research is important in determining institutional practice in carrying out expropriations, and whether these institutions are willing and able to comply with the procedures set forth by the expropriation law. Qualitative data also provides context for community perceptions about whether the relevant institutions respect procedural requirements in the law. Furthermore, qualitative research provides information about how the expropriated households are affected by expropriation. In general, the analysis of qualitative data follows the two over-arching themes of this study: the implementation of the procedures required by the 2007 expropriation law, and what outcomes expropriation has on the livelihoods of expropriated individuals.

Five major aspects of the expropriation procedure emerged in the qualitative data: 1) valuation of land; 2) payment of compensation; 3) planning and applications for expropriation; 4) public interest determination; 5) notice and public participation. Valuation and compensation were discussed by respondents more than all the other topics combined. The analysis of data relating to outcomes focuses on 1) the adequacy of compensation; 2) the availability of alternatives; and 3) effects on the livelihoods of expropriated individuals, as regards their economic, social, health, and educational conditions. This report on qualitative research groups respondents into categories by type of institution so that some analysis may relate to the perceptions of different actors in the expropriation process, and assist in identifying gaps in procedures.

I. INTRODUCTION

This report is one in a series of documents based on a study of the Implementation of Rwanda's Expropriation Law and Outcomes on the Population. It reports findings from the "qualitative research" component of the study, based on a systematic and semi-structured set of interviews with representatives of key institutions/organizations and focus groups of individuals knowledgeable about, and affected by Rwanda's expropriation law. The report will be followed in due course by the presentation and analysis of data from a national survey of expropriated households in Rwanda. As described in the Background Information section of this report, both the qualitative and sample survey components of the study are being implemented by the Legal Aid Forum (hereinafter "LAF" or "the research team"), and are funded by the United States Agency for International Development (USAID) through the LAND Project.

A. Background Information

Initiated in June 2012, the LAND Project seeks to strengthen the resilience of Rwandan citizens, communities and institutions and their ability to adapt to land-related economic, environmental and social change. Building the capacity of Rwandan institutions to produce high quality, evidence based research on land is a critical part of reaching this goal. Solid, empirical research is fundamental to the identification of needed policy changes in the land sector and also to validate policies and laws that are already contributing to stronger citizen resilience and improved livelihoods.

From February 10-12, 2014, the LAND Project held a multi-stakeholder workshop to identify key, policy-relevant research priorities on land. Drawing from a list of 44 research themes submitted in advance of the workshop, participants collaborated to distill this down to three research priorities that would receive LAND Project support this year:

1. To what extent are land tenure administration systems known, accessible and affordable to all Rwandan citizens? What are some of the primary impacts of land certificates and the land administration system, including access to credit for smallholders?
2. What is the impact of gendered legal rights to land, including on the prevalence and nature of intra- and inter-household disputes? What channels do men and women use to bring disputes and assert their rights? How effective are these?
3. What is the status of processes and procedures for the implementation of the Expropriation Law? What are the key challenges and impacts from the implementation of this law?

Subsequently, the LAND Project sought the views of several Government of Rwanda (GoR) institutions whose mandates intersect with these research priorities to help inform that development of draft technical Terms of Reference for each theme. This was done to ensure that the research was responsive to the information needs of policy makers. On May 13, 2014, the draft Terms of Reference were published in the New Times and igihe.com and also sent directly to many civil society, research and government institutions operating in the land sector in Rwanda as a Request for Comments. LAND Project staff then reviewed the comments received and used these to inform revisions to the Terms of Reference for each of the research themes.

The Legal Aid Forum (hereinafter “LAF” or “the research team”), submitted a bid and was awarded the funding to carry out research for topic 3 above, relating to the implementation of the expropriation law and the outcomes on the population.

This subcontract from the LAND Project to LAF seeks to generate high quality, evidence-based research on the implementation of Rwanda’s Expropriation Law and outcomes on the population. The research is designed to equip decision-makers and civil society with reliable information on which to assess the need for policy adaptation. The award further aims to augment the experience of local organizations in carrying out rigorous research on land-related themes and also strengthen their capacity to do so through teaming with external research partners that have proven skills in research design, research methods, data analysis, analyzing complex land issues, and effectively communicating research to influence policy.

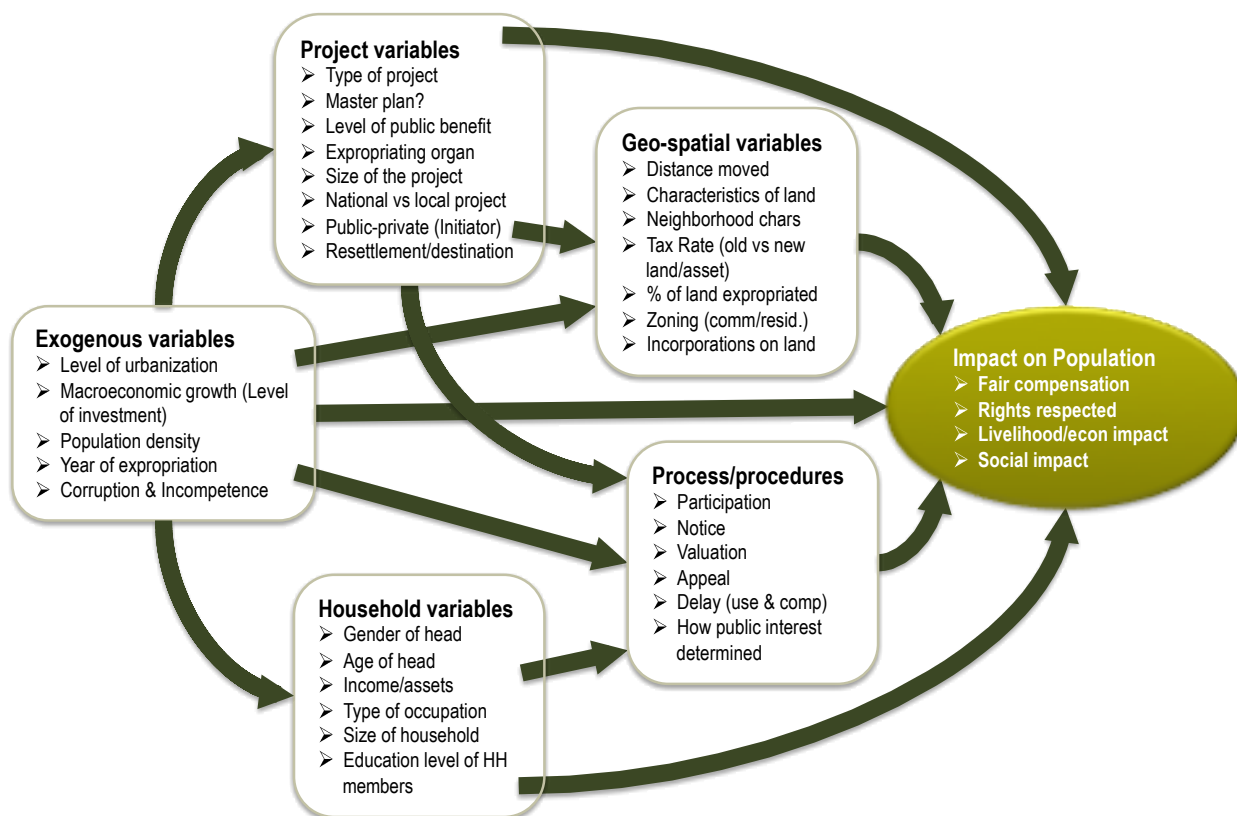
B. Research Questions Under Study

This study on Rwanda’s Expropriation Law and Outcomes on the Population aims to answer the following research questions:

- To what extent has the process used for expropriation complied with the governing legal framework, and specifically the 2007 Law on Expropriation? Are “public interest” principles appropriately applied? To what extent do processes and procedures for expropriation in practice comply with international guidelines and best practice for expropriation?
- Which institutions are legally responsible for implementation of expropriation and what is the practice?
- Has full compensation been awarded prior to actions taken to remove people from their land or otherwise reducing the rights they had to the land? Is relocation support provided? How is property valuation undertaken and the amount and type of compensation determined?
- Where challenges and shortcomings have been identified in implementing expropriation? What are the reasons?
- What have been the outcomes of expropriation on the livelihoods of those expropriated, such as acquisition of new land and housing, access to income- generating opportunities, family and community relations, social capital, tenure security, income, poverty, and other welfare outcomes?
- What alternatives to expropriation exist that support dynamic urban and economic growth while also strengthening tenure security and protecting the livelihoods of the poor and vulnerable?
- What recommendations can be offered to improve implementation of expropriation to ensure it is done in full compliance with the law?
- What recommendations can be offered to improve policy governing expropriation to foster a climate of tenure security among Rwandan citizens, mitigate negative consequences on those expropriated, and ensure returns on investments substantially outweigh the costs and benefit the most vulnerable members of society?

Based on these research questions, the research team developed the following conceptual framework for the research:

Conceptual Framework: Implementation of Rwanda's Expropriation Law and Outcomes on the Population



This conceptual framework reflects the variables that the research team has identified that will influence the research questions. These variables will be examined both through the use of quantitative research in an upcoming household survey, and qualitative research, the findings of which are detailed below.

In light of the research questions and the conceptual framework of the study, the research team has identified a number of specific research questions and variables to be addressed and supported primarily through qualitative research. In particular, qualitative research is important in determining institutional practice in carrying out expropriations, and whether these institutions are willing and able to comply with the procedures set forth by the expropriation law. This includes the practical requirements for expropriation applications, such as public interest determination and notice, the valuation process, and general institutional roles in the expropriation process. Qualitative data also provides context and some evidence of community perceptions about whether the relevant institutions respect procedural requirements in the expropriation law, and some information about how the targeted households are affected by the expropriation law. Furthermore, qualitative research also informs the inquiry into reasonable alternatives to expropriation, and recommendations for improving implementation of the law.

II. PROFILE OF RESPONDENTS

A variety of respondents from different sectors and stakeholder groups have been sought out in the gathering of qualitative data. In gathering this qualitative data, both Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs) have been used. KIIs are semi-structured interviews with individuals at institutions involved in the expropriation process in some way. KIIs focus on respondents from government offices and some Civil Society Organizations (CSOs). FGDs are semi-structured discussions with groups of respondents with similar characteristics who have either knowledge about or experience in the expropriation process.

Respondent categories for this qualitative research stage include:

- Expropriating entities: government entities or quasi-state entities that carry out expropriation projects;
- Coordinating entities: government entities that may or may not expropriate directly, but that have a role in liaising with expropriating entities, whether through oversight, coordination, or advice;
- Government entities: other government entities that are concerned with the expropriation process in some way;
- Local authorities: decentralized authorities that either expropriate directly or liaise with local populations regarding the expropriation process;
- Civil Society Organizations (CSOs): non-governmental organizations serving or representing Rwandan citizens or conducting research in Rwanda;
- Expropriated individuals and other expropriated legal persons.

Although some entities are cross-listed because they play multiple roles in the expropriation process, the entities included in this qualitative study are listed below with the dates of the interviews or focus group discussions, and are organized by the primary roles they play in the expropriation process.

Expropriating Entities:

- Rwanda Social Security Board (RSSB) (KII, 14/01/2015);
- Rwanda Transportation Development Authority (RTDA) (KII, 16/01/2015);
- Rwanda Housing Authority (RHA) (Interview requested 08/01/2015 but is yet to be secured);
- Rwanda Energy Group (REG) (formerly known as EWSA) (Interview requested 08/01/2015 but is yet to be secured);

Coordinating Entities:

- Ministry of Infrastructure (MININFRA) (KII, 18/01/15);
- Ministry of Natural Resources (MINIRENA) (KII, 15/01/15);
- Ministry of Local Government (MINALOC) (KII, 19/01/15);
- Rwanda Environment Management Authority (REMA), speaking in a personal rather than official capacity (KII, 9/01/15);
- Rwanda Development Board (RDB) (Interview requested 7/10/2014 but is yet to be secured);
- Ministry of Finance (MINECOFIN) (Interview requested 8/01/2015 but is yet to be secured);

Government Entities:

- Office of the Ombudsman (KII, 7/11/15);
- Rwanda Natural Resources Authority (RNRA) (KII, 5/11/14);
- Office of the Prime Minister (Interview requested week of 09/02/2015);
- Rwanda Governance Board (RGB) (Interview requested 08/01/2015 but is yet to be secured);
- Ministry of Justice (MINIJUST) (Interview requested 30/10/2014 but is yet to be secured);
- Private Sector Federation (Interview requested week of 09/02/2015);
- Development Bank of Rwanda (BRD) (Interview requested week of 09/02/2015);
- Court staff, including judges and clerks (FGD, date pending);

Local Authorities:

- City of Kigali (KII, 15/01/2015);
- Other Districts/Sectors to be included pending selection of Sectors and commencement of field work.

Civil Society Organizations:

- Conseil de Concertation des Organisations d'Appui aux Initiatives de Base (CCOAIB) (KII, 12/01/15);
- Agency for Cooperation and Research in Development (ACORD) Rwanda (KII, 13/11/2014);
- *Urugaga Imbaraga* (KII, 11/11/14);
- Institute of Policy Analysis and Research (IPAR) Rwanda (KII, 10/11/14);
- Institute of Research and Dialogue for Peace (IRDP) (KII, 16/01/15);
- LAF member organizations (CSO FGD, 16/01/15):
 - HAGURUKA;
 - IBUKA;
 - AVEGA;
 - LIPRODHOR;
 - COPORWA;
 - LDGL;
 - AJPRODHO;
 - HRFR; and
 - ULK/Legal Clinic;
- Transparency Rwanda, LAF Member Organization (Invited to participate in CSO FGD on 16/01/2015 but could not attend; rescheduling for KII, date to be determined);

Professional bodies:

- Institute of Real Property Valuers of Rwanda (IRPV) (KII, 14/01/15);
- Rwanda Bar Association (RBA) (FGD being organized through central administration);

Expropriated Individuals/legal persons:

- Bugesera (airport) expropriation (Bugesera FGD, 21/01/2015);
- Batsinda/Kiyovu relocation (Batsinda FGD, 21/01/2015).
- Other FGDs to be organized during field work (Ndera site also under consideration).

Further Focus Group Discussions with local authorities and expropriated individuals are planned once specific sectors are identified for study. The research team is currently undergoing a multi-stage listing process to this effect.

III. QUALITATIVE RESEARCH FINDINGS

A. Procedural Concerns

Five major aspects of the expropriation procedure emerged in the qualitative data. These were: 1) valuation of land; 2) payment of compensation; 3) planning and applications for expropriation; 4) public interest determination; 5) notice and public participation. In the qualitative research gathered to date, valuation and compensation were the most commonly discussed of these issues among respondents. Valuation was a slightly more prevalent topic than compensation, although the two concepts are closely related. For purposes of this analysis, “valuation” will refer to the process of setting the value of the properties being expropriated, and related processes such as engagement of independent valuers or application of reference land prices. The process of valuation also involves local authorities in facilitating site visits and assisting valuers to obtain comparable sales data. Accordingly, any references to the “amount of compensation” were categorized as comments on valuation for purposes of this analysis because they referred to the valuation transaction rather than the compensation transaction. “Compensation” will refer to either the transaction of the relevant government entity providing cash to the expropriated individual at the price set by the valuation, or providing alternative/replacement land or buildings in lieu of cash compensation, as provided by Article 23 of the Expropriation Law.

1. Valuation of Land

Valuation was the single most commonly discussed topic by all respondents. Among those respondents who received complaints about the expropriation process, complaints about unfair valuation were the most commonly cited by public entities, including expropriating entities, and CSOs alike.¹ The reasons given by the respondents for the high number of complaints relating to valuation of land included:

- a general resistance of the population to expropriation in general,
- objection to valuation prices (especially for land) that do not allow the expropriated individual/household to get similar land at the same price,
- omission of some of the individuals’ properties/assets in the valuation process by valuers,
- incompetence or mistakes committed by property valuers, and
- corruption by local authorities, expropriating entities, valuers, or investors, or some or all of these complaints in combination.

Respondents from all categories identified serious weaknesses in the valuation procedures, primarily due to a lack of (or an excess of) oversight in the valuation process, and also due to poor coordination in valuing property, causing resistance and additional complaints from expropriated individuals. In particular, they identified the relationship between local authorities, valuers, and the population as a point of vulnerability for potential corruption and abuse of power. However, it was not entirely clear how these dynamics actually influenced the process. Some CSOs accused local authorities of over- or under-valuing properties for private gain, and MINALOC and RSSB noted the possibility of local authorities conniving with property owners to inflate property values in order to pocket the difference.

¹ MININFRA, MINIRENA, RSSB, RTDA, IRPV, ACORD, CCOAIB, IRDP.

While expropriated individuals did note a problem with valuations being done without clear standards, no persons interviewed up to the present time have pointed to actual evidence of corruption in the valuation process. Even the Institute of Real Property Valuers (IRPV), the newly-created professional society vested with the responsibility of valuation of land, and local authorities admitted to these challenges and weaknesses in the process, even openly implicating themselves. The IRPV, for example, indicated that some valuers are prone to buckle to pressure put on them by expropriating entities to lower the valuation. This is done as a way to save their contracts with the expropriating entities—their employers.

Many government entities and expropriating entities pointed out a recent change in the valuation framework. Formerly, local authorities applied reference land prices set by Ministerial Orders² in order to value land subject to expropriation.³ These reference land prices were set to control for distortions in Rwanda's land market that could have resulted in overly favorable bargaining power for landowners.⁴ However, the reliance on the reference land prices has resulted in windfalls to expropriating entities to the detriment of some of Rwanda's poorest citizens because the reference land prices were created for use by non-professional valuers, and accordingly were fixed indefinitely and could not be increased with the increase in market prices of land.⁵ Because reference land prices were mainly intended for use by local authorities valuating land on an *ad hoc* basis, the use of the reference land prices created incentives to engage in corruption, whereby local authorities valuating land with little oversight could misstate land prices or plot dimensions for their own benefit, or extort landowners or investors.⁶ Recently, however, the reference land prices appear to be falling out of use. Although the Ministerial Orders setting these prices have not been officially repealed, all expropriating entities interviewed referred to the new practice of hiring a professional valuator from the IRPV through an open bidding process to value expropriated land according to market prices.⁷ This shift is reportedly supported by Instructions of the Prime Minister,⁸ though up to the present time, the Instructions have not been made available to the research team, even after contacting institutions that claim to be governed under them. This indicates that the procedures for valuation are in fact far from settled by law.

Despite the shift to using IRPV valuers, CSOs and expropriated individuals did not express optimism that the valuation process would improve with this change. Many of these respondents, including residents expropriated in Bugasera, claim to have had negative experiences with valuations performed by IRPV valuers (including contradictions in prices by valuers of the same company). However, many of the respondents from government entities cited the shift to property valuation based on market prices as a critical positive step toward improving the fairness of the valuation exercise in expropriation projects.⁹ The process of engaging independent valuers in the assessment of land values is still a relatively new and

² Ministerial Order No. 001/16.00 of 23/11/2009 determining the reference Land Prices in the City of Kigali, and Ministerial Order No.002/16.01 of 26/04/2010 determining the reference Land Prices Outside the Kigali City.

³ MININFRA, RNRA, Kigali City, IRPV, MINIRENA, REMA.

⁴ According to RNRA.

⁵ CCOAIB, REMA.

⁶ Urugaga Imbaraga, MININFRA, CCOAIB, RSSB.

⁷ RSSB, MININFRA, MINIRENA, RTDA, IRPV, Kigali City

⁸ Kigali City Mayor referred to such instructions in the KII of 15/01/2015. See also letter dated 18th June 2014 of the Minister of Natural Resources responding to the letter dated 30th May 2014 of the Permanent Secretary/MININFRA seeking advice about the contradictions between the 2007 expropriation law on one side and the Ministerial Orders (No. 001/16.00 of 23/11/2009 determining the reference Land Prices in the City of Kigali, and No.002/16.01 of 26/04/2010 determining the reference Land Prices Outside the Kigali City).

⁹ Kigali City, IRPV, MININFRA, IRDP, REMA.

ad hoc procedure because the laws on the IRPV, the reference land prices, and the expropriation law (which is pending amendment) have not been harmonized. For now, the Instructions of the Prime Minister seem to loosely govern the process. Accordingly, the effects of the shift to independent valuers cannot yet be reliably assessed. However, at least in Kigali City, the Mayor noted that since the practice of using independent valuers commenced, there has been a decline in the number of complaints over valuation of land. Nonetheless, there was some support for the establishment of new reference land prices to be set by the IRPV and updated at least yearly, to align with the market prices of land.¹⁰ No respondents commented on how these new reference land prices would avoid any of the problems associated with the use of reference land prices under the former regulatory regime.

In valuing land based on market prices, the IRPV reports that its valuers value land by comparing approximately five (5) recent sales in the area, and then using an average of those sales to set a market land price per square meter. IRPV valuers also set standard values for construction materials used in housing and other buildings, and factor in depreciation or any income on the property to value improvements on the land. Valuers are also able to use comparable sales to value certain income-generating assets on land, such as trees. Public entities that engage in or oversee the process of expropriation corroborated many of these valuation procedures as reported by the IRPV.¹¹

Most government entities and expropriating entities explained that valuation, especially now that it is seen as within the purview of the independent valuers, is a process outside of their own control. These entities do, however, cite their obligation to cross-check the values submitted by valuers by looking for errors or discrepancies in the valuation reports.¹² IRPV, however, lamented about the influence and interference of some expropriating entities into the professional and technical work of valuers to the extent of determining the maximum land prices per square meter.¹³ Expropriating entities expect local authorities to take the lead role in mediating disputes caused by discrepancies between the values set by valuers and the values expected by landowners, and at most will recommend that expropriated individuals seek a counter-valuation (*contre-expertise*) of the property if they are unhappy with the value provided.¹⁴ MININFRA, however, cited a concern that counter-valuations actually lead to delays in the expropriation process, suggesting perhaps that it would discourage use of the process.

According to the IRPV, a contested valuation usually results first in a re-valuation of the property by the same valuator. If no mistakes or discrepancies are reported between the initial report and the re-valuation, the IRPV recommends that individuals seek a counter-valuation by a different valuator.¹⁵ When compared with the frequency of complaints about valuation and reported frequency of agencies that refer individuals to seek counter-valuation, the reported frequency of individuals actually seeking counter-valuation seems quite low. This will be carefully assessed in the following stages of the research to know whether it is indeed the case. Some CSOs noted that many expropriated individuals who would like to seek a

¹⁰ IRDP, IRPV, REMA, RTDA, MINIRENA. N.B. This would differ slightly from the current property taxation scheme, which sets taxation based on set prices per square meter by District.

¹¹ MINALOC, MININFRA, MINIRENA, RTDA.

¹² RTDA, MINALOC, RSSB.

¹³ Interview with the President of the IRPV.

¹⁴ Kigali City, MINIRENA, RSSB.

¹⁵ Bugesera FGD, 21/01/15, Batsinda FGD, 21/01/15 (broadly indicating that expropriated individuals believed counter-valuation was fruitless or prohibitively expensive).

counter-valuation of their properties need government assistance because the cost is prohibitive. The comments of expropriated individuals corroborated these claims, with some indicating that the cost of a counter-valuation was roughly the same price at which their entire plots were valued.¹⁶ Residents of Bugesera, however, noted that they did not know about and were never informed of their right to challenge the valuation through appeal or counter-valuation, and some claim they were forced to sign valuation reports on their properties, whether or not they agreed with the process or the value.

Regarding the potential for corruption in the valuation process, the Rwanda Social Security Board (RSSB) expressed a concern that property owners may lie about their assets in order to inflate the value of the property.¹⁷ MININFRA is similarly concerned that valuers and local authorities are occasionally over-valuing land or reporting different boundaries on property for private gain. Some local leaders and valuers are reported to go to the extent of falsifying and valuing ghost properties/assets with some local leaders having even been taken to court for such irregularities.¹⁸ On the other hand, IRPV reported that expropriating entities sometimes put pressure on valuers to drive prices down and have even terminated contracts with valuers based on dissatisfaction with their reported valuations. Furthermore, IRPV reported that some expropriating entities still expect valuations to align with the reference land prices rather than with current market prices. Dissatisfaction by expropriating entities has even led to pressure to change valuation reports to align with project budgets that were based on obsolete reference land prices. It should be noted, however, that no expropriated individuals who were interviewed to date reported being asked for a bribe, nor had they heard of anyone asking for or paying a bribe throughout the expropriation process.

Expropriating entities cited major concerns with the delays between announcing an expropriation, valuing the land, and actually carrying out the expropriation. They contend that these delays encourage individuals to improve their properties in order to inflate the compensation values.¹⁹ They also accuse local authorities of potentially illegally granting construction permits based on bribes paid by those individuals facing expropriation. However, public officials revealed some confusion about the timeline for making such improvements, which they say can lawfully be carried out up until the valuation exercise and nonetheless must be funded by the property owner him or herself. CCOAIB even reported receiving complaints from landowners who were denied permits to improve their properties once expropriations were announced but before valuation was carried out. Some government entities also reported that expropriated individuals should be made aware of their right to improve their properties if compensation is delayed by more than 120 days.²⁰

The Office of the Ombudsman has also received many complaints related to delays in compensation after expropriation is announced, or after the valuation exercise is carried out, and has been recommending re-valuation of lands for cases where serious delays have occurred, such as the Bugesera project. Furthermore, the Ombudsman's Office recommends instituting fines against entities that fail to compensate on time or those who abandon the expropriation project(s) after making the population to wait for long time and without making any improvements on their land. Contrary to the concerns of government entities, expropriated individuals in the Bugesera area are facing what they report to be extremely low valuations of

¹⁶ Bugesera FGD, 21/01/15, Batsinda FGD, 21/01/15.

¹⁷ Also corroborated by MININFRA and FGD of 16/01/15.

¹⁸ Interview with MININFRA.

¹⁹ RSSB, RTDA, MININFRA.

²⁰ MINIRENA, REMA.

their land. Moreover, those still waiting to be compensated have not been permitted to build on their land, improve their homes, or plant annual or perennial crops since April 2013.

Some CSOs reported varied experiences of their members and clients in expropriations driven by private investors and by government entities. Haguruka even reported clients exclaiming “*Vive l’expropriation!*” after being expropriated and fairly compensated by a private investor, and reported receiving positive reports from individuals expropriated by investors.²¹ This was also echoed by expropriated people in Batsinda where they were comparing their situation with that of the people expropriated in Rugando area where the Convention Center is currently being built.²² Notwithstanding these experiences, CSOs overwhelmingly support a revision of the “acts of public interest” mentioned in the law in order to exclude private interests that are linked with investment.²³ A majority of CSOs interviewed also recommended that investors be required to negotiate compensation prices directly with individuals being expropriated. An official from REMA, speaking in his personal capacity, likewise supported this proposed approach.

2. Payment of Compensation

After valuation has been completed, the compensation of affected households is another important step in the expropriation process that causes challenges and is prone to irregularities and abuse. It is also the second most frequently mentioned topic in the qualitative data to date. The major concern with compensation in expropriation projects, expressed by all respondents, is the delay of payment of compensation once valuation has been set. A frequently cited reason for this delay is poor planning and insufficient allocation of funds at the planning stage.

According to responses of key informants, poor planning generally referred to the notion that adequate funds for compensation were not secured by the expropriating entity ahead of time, or the budgetary implications of the project did not properly contemplate the actual costs of the project, such as increasing market prices and subsequent improvements on land to be expropriated.²⁴ A related issue in poor planning is also the problem of delays in carrying out the expropriation projects, which have significant budgetary implications for public institutions budgeting per fiscal year.²⁵ Also, some institutions mentioned the bureaucratic procedures of payment which may also lead to delays where the payment process has to go through more than three institutions.²⁶ Although CSO respondents and the Office of the Ombudsman noted these delays as a major problem and source of complaints in the expropriation process, some other public entities noted that this problem is no longer as pervasive as it once was now that the government has announced a policy to undertake expropriation only when funds are allocated ahead of time.²⁷ Among government agency respondents, only one admitted that it suffered from budgetary planning problems that led to delays in the payment of compensation, apparently due to overly-ambitious development planning in urban centers.²⁸

²¹ CSO FGD, 16/01/15.

²² Bugesera FGD, 21/01/15, Batsinda FGD, 21/01/15.

²³ This discussion is detailed in full in Section III.4. below.

²⁴ RSSB, IRPV, Kigali City, MINALOC, MININFRA, Ombudsman, REMA, RTDA.

²⁵ RTDA.

²⁶ Kigali city and MINALOC.

²⁷ RSSB, Kigali City, MININFRA.

²⁸ Kigali City.

Some expropriating entities also cited errors in the lists of expropriated individuals provided to them by local authorities as a major challenge to delivering compensation on time and to the right persons. Specifically, they cited errors with identity card numbers, bank account details, and names of expropriated individuals, all of which could reasonably cause delays in the delivery of compensation.²⁹ In some cases, difficulties in locating the real owners of rural land parcels were also cited as reasons for delayed compensation.³⁰ Furthermore, RTDA cited a largely underreported issue of wives being excluded by husbands as co-owners of the property and accordingly not receiving any share of the compensation. RTDA identified this as the second most common complaint it receives in regards to the expropriation projects it carries out, after complaints about unfair valuation.

Resettlement to comparable land was favored by many government respondents over cash compensation, due to a number of problems associated with the latter. Government entities and CSOs reported a persistent problem of expropriated individuals spending their compensation funds before investing in replacement housing as well as the constant problem of poor housing (slums) created by those expropriated in the area where they have relocated.³¹ One MINALOC official noted, “If you leave these people with little money to go, they are not going to easily get other land or be able to build another house, but instead will eat the money and become a burden to the government.” Both Kigali City and MINIRENA reported that individuals commonly request cash compensation rather than resettlement, although both institutions would favor resettlement. Expropriated individuals themselves in fact reported favoring cash compensation over resettlement, citing major problems facing resettled individuals in Batsinda and those still awaiting resettlement from Bugesera. Although some government entities and expropriating entities express preferences for resettlement over cash compensation, the Mayor of Kigali City noted that lack of available habitable land (only 15%) remaining in the city poses a serious challenge to a largescale policy of resettlement over cash compensation.

3. Planning and Applications for Expropriation

Following concerns about valuation and compensation, planning—and in particular poor planning—was the next most frequently reported issue in the expropriation process, by both CSOs and government entities. The Prime Minister’s Instructions relating to expropriation may govern the procedures of planning for expropriation, such as allocating proper funds for compensation before carrying out the expropriation. While these Instructions are not law and are not publicly available, there was general consensus among expropriating entities and other coordinating and government entities that these instructions exist and that they may be binding. Furthermore, expropriating entities cited the obligation of local authorities to sensitize populations to expropriation, and to facilitate the payment of compensation.³² However, when asked whether institutional coordination was in fact a problem in the expropriation process, MINALOC noted that local authorities are not succeeding in this role, and one official simply stated, “the coordination mechanism is not effective because if it was effective, we wouldn’t be seeing all of these problems with expropriation.” This has led multiple respondents to call for the creation of a national coordinating body over expropriation.³³ MINALOC has recently created a dedicated unit to respond to issues arising

²⁹ MININFRA, MINIRENA, MINALOC.

³⁰ RTDA.

³¹ Kigali City, MININFRA, MINALOC, RTDA, CCOAIB.

³² RSSB, REMA.

³³ MINIRENA, MINALOC.

from expropriation within the ministry as a first step, but believes a national coordinating body will also be needed.

In submitting the application for expropriation, most expropriating agencies interviewed reported completing some kind of study or business plan before carrying out the expropriation. The reported focus of such studies included primarily environmental impacts of the projects. Social and budgetary implications of the expropriation projects were also reported to be included in some studies. However, the subject matter of these reports appears not to be standardized nor mandated by law or regulation, according to the respondents. For example, RTDA reported that, although it conducts technical feasibility studies to determine the best placement of roads, it undertakes minimal planning with respect to the placement of bridges. MININFRA reported that it relies heavily on the recommendations of technical experts to determine the sites for expropriation projects, without providing much consultation with the population or Ministry officials. Furthermore, aside from these few responses, most agencies did not suggest any process for investigating or recommending alternative sites for expropriation projects to be presented in the application for expropriation, or to generally minimize impacts on the population.

A majority of respondents also cited the Master Plans as overarching planning documents intended to promote good land use planning, reduce successive expropriations, and facilitate the broader development of the country. However, the reliance on Master Plans causes both CSOs and government entities alike to have concerns about the misuse of such plans. Former Kiyovu residents reported being told they were being expropriated to implement the Kigali City Master Plan. Nonetheless, they reported being given no further information about what that meant in practice, apart from the removal of slums where they were told they were residing. Kigali City reported that some land has already been and should continue to be expropriated in order to proactively facilitate investment, even when a specific investor has not yet requested the expropriation, creating the potential for further distortion of land values. Furthermore, CSOs, government entities, and local authorities cited a pervasive problem of local authorities illegally changing Master Plans in order to further their own interests.³⁴ Although respondents did not cite specific examples of the changing of Master Plans, many did cite the need for a national coordinating body to oversee the implementation of Master Plans.

This coordinating and planning has broad ramifications and necessitates efforts to allocate funds properly and in advance of expropriations, and to guide expropriated individuals and groups through the resettlement process. Without these efforts, as a MINIRENA official noted, “expropriation will be an endless cycle.” Accordingly, the City of Kigali has reported making concerted efforts to counsel expropriated individuals through the process of expropriation and compensation in order to help them plan to spend their compensation funds more wisely and to acquire appropriate replacement land, even encouraging group resettlement if it is an option.

The option of resettlement in lieu of cash compensation is provided for in the law, and many entities and coordinating agencies state a preference for resettlement. At the same time, however, these entities claim either not to be competent to carry out resettlements or not to have the funds available for resettlements.³⁵ Furthermore, expropriated individuals face

³⁴ CCOIAB, IPAR, CSO FGD, 16/01/15, MINIRENA, REMA.

³⁵ RSSB, Kigali City.

further distress and confusion when multiple government entities intervene and may even be at odds during the expropriation process. For example, Bugesera residents explained that their own local authorities (cell level) received information about the expropriation process at the same time as the population received the information at community meetings, and were not able to counsel residents through the process because they too were not well-informed about the project. Former Kiyovu residents, who were expropriated prior to the passage of the 2007 law, reported distress and alarm at the variety of coordination issues, including the surprise bull-doing of some of their homes while they were at a meeting on the expropriation.

These data suggest broader institutional disconnection and lack of clarity regarding each institution's role in the expropriation process. For example, institutions integral to the expropriation process were not consulted in the production of the new expropriation law, now in draft form pending approval with the Parliament. The Office of the Ombudsman, for example, has been taking complaints related to expropriations even before the 2007 law came into force, and reported recommending various interventions and improvements to the process repeatedly throughout the past 10 years. MININFRA manages most infrastructure projects, which is the most frequently reported reason for expropriation recorded to date in this study. Nonetheless, both of these institutions reported not being informed about the review and amendments being considered for the expropriation law. MINIRENA, the sponsoring institution of the law, however, said that they did consultations in composing the draft law, mentioning IRPV, RTDA, and REMA as examples of institutions that were consulted. Whereas almost every respondent mentioned "coordination" as a key aspect of improving implementation of the expropriation law, the concerned institutions appear to have thus far been unable to achieve that coordination. Based on the qualitative data, the problem of coordination appears to be primarily caused by confusion about institutional roles, a fluctuating legal framework, and an overall pressure to meet national and local development plans without sufficient budgetary funding.

4. Public Interest Determination

The implementation of the Master Plans, projects to build roads, and projects to install electric lines were common "public interest" reasons cited by the respondents for carrying out expropriations. In addition, other activities that are not technically expropriation were nonetheless frequently raised by respondents in the interviews. MINIRENA and REMA, for example, reported some activities to remove individuals from environmentally-sensitive lands, although it is unclear whether these instances are actually covered by the expropriation law or other processes.³⁶ The expropriation law does not specifically provide for such cases. Furthermore, some CSOs and individuals reported problems with forced removals or sales of lands occurring under other legal regimes, or outside of the law altogether—in particular through the implementation of the *imidugudu*/shelter program whereby individuals are required to purchase land in the village center with cash or through granting their land in remote areas to those who already own the land in the village centers as a kind of exchange. Although not specifically covered by this study, many respondents raised the *imidugudu*/shelter program in the context of discussions on expropriation, in particular as a common reason for expropriation, suggesting that this process is closely linked to expropriation conceptually, if not legally.³⁷ One CSO representative even noted that its clients

³⁶ See, e.g., Organic Law N. 04/2005 of 08/04/2005 determining the modalities of protection, conservation and promotion of the environment in Rwanda.

³⁷ *Urugaga Imbaraga*, CSO FGD, 16/01/2015.

consider the *imidugudu* program as a type of uncompensated expropriation.³⁸ It should, however, be noted that during the *imidugudu* process, people are not dispossessed of land (as in expropriation), but rather are required to exchange it with another parcel of land in the area designated for *imidugudu* (in case this designated area belongs to a private individual).

CSO respondents also widely reported concerns that the public interest nature of some expropriation projects is questionable, and may be influenced by corruption.³⁹ MINIRENA reported that local authorities are not clear about the meaning of public interest and either make mistakes in interpreting this provision, or, as mentioned above, exploit vagueness in the law and act to promote their personal interests.⁴⁰ MINIRENA reported that this is in fact one of the key issues under debate in the current draft law. Although the definition of “public interest” had been narrowed in the original draft, MINIRENA reported that the Senate has requested a clarification and potential expansion of the definition to ensure that some investment activities are included in the definition of public interest. These debates have caused one CSO to question that “if an expropriation done by a private investor can be referred to as a public interest, then what is a personal interest?”⁴¹

Private investment is a use contemplated in Master Plans, so these comments may reveal a misunderstanding about the relationship between private investment, planning, and expropriation intended by the law. Because the expropriation law includes “activities to carry out master plans” as one of the acts of public interest that can give rise to expropriation, it appears from the reports of expropriating agencies that further justification of how a given project is contemplated by the Master Plan is not required. Even prior to the passage of the law, Kiyovu residents were told that because they lived in slums, which were not contemplated by the Master Plan, they must be expropriated.

Furthermore, CSOs noted that the Master Plans were not developed through consultative processes, so if the implementation of the Master Plan is the reason given for a certain expropriation project, it is as if the public was never consulted in carrying out the project. In general, CSOs expressed a concern that the degree of public interest in a given project, whether it is meant to be implementing a Master Plan or any other permitted activity, is rarely opened for discussion. One Bugesera resident asked, “Can the Mayor say that you're going to be expropriated and you challenge him?” Whether local authorities are not aware of the legal requirements or of the overall plans, or whether their presence intimidates residents, CSOs and respondents in focus groups noted that it is rare for communities to engage in any meaningful discussion about the nature of the public interest or potential alternatives to the project.⁴²

5. Notice and Public Participation

Although involvement of the public is cited by many government entities and CSOs as one of the fundamental ways to improve the implementation of the expropriation law, it remains unclear to expropriating entities when, where, how, and why to involve the public in the expropriation process. According to the Office of the Ombudsman, which has been taking complaints regarding the expropriation even before the adoption of the 2007 Expropriation

³⁸ CSO FGD, 16/01/2015.

³⁹ IRDP, CCOAIB, CSO FGD, 16/01/15.

⁴⁰ MINALOC, MININFRA.

⁴¹ Lawyers of Hope, CSO FGD, 16/01/15.

⁴² Bugesera FGD, 21/01/15, Batsinda FGD, 21/01/15.

Law, this is the single most important improvement that needs to be made to the expropriation process. A representative from IBUKA noted that, “Many times, [individuals to be expropriated] are not told what the project is about; no room is provided to discuss alternatives to expropriation or discuss relocation options.” This sentiment was echoed by most other CSO respondents as well. One individual expropriated from Kiyovu noted that discussions with local leaders did not include the possibility of discussing alternatives to the project, and that these community meetings “were more for information giving than dialogue.”

Expropriating entities commonly reported little interaction with the concerned communities overall, even stating that expropriating entities had no responsibility to notify the concerned population, but rather relied on local authorities to do so.⁴³ CSOs reported, however, that oftentimes individuals being expropriated were not even given personal notice of the planned expropriation—which is corroborated by RTDA reports about wives being excluded from the expropriation process by their husbands. Many respondents also noted that the lack of notice and participation in the process also leads to the population’s resistance to expropriation overall, and also to speculation about expropriation being used to seek private, unlawful gains from the process.⁴⁴ Among approximately 35 expropriated individuals interviewed to date, all of them reported receiving notice through public meetings about the expropriation project.

B. Livelihood Concerns

1. Adequacy of Compensation

Both government entities and CSOs alike cited concerns about individuals not being able to acquire new land and homes with their cash compensation because it is inadequate. CSOs tended to attribute this to the compensation being too low, and the reports of expropriated individuals seem to corroborate these views. In Bugesera, for example, two valuation exercises were carried out—the first valuation in August 2012, and the second valuation in April 2013. While it seems sensible to revalue properties after such a long delay, the result of the second valuation was reportedly the reduction of the market price of each plot of land by approximately half. One individual stated, “During the first exercise I had signed for [a value of] RWF 5,400,000, but the second valuation reduced this to RWF 2,500,000. Even if there was a change in market prices, how can something reduce from 5.4 million to 2.5 million in just 7 months?” From her perspective, the passage of time should have resulted in an increase in the value of her land, and not a reduction. Not only did Bugesera residents question the adequacy of cash compensation, but they also reported that many of their neighbors who opted for resettlement are now homeless because the replacement homes have not yet been built, although they have already been expropriated from their Bugesera properties. Most of those still awaiting cash compensation expect to receive less than RWF 100,000 for an average plot (20x30), while comparable land in Nyamata is being sold for a minimum of RWF 400,000.

Public agencies attributed problems expropriated individuals face in acquiring replacement property to individuals not being able to manage large sums of cash well and wasting their compensation funds rather than purchasing replacement property. This has led to local authorities providing some financial planning and follow up. However, no official policies in this regard have yet been orchestrated or funded. Furthermore, while many government entities recognized a need to assist expropriated individuals with the costs of relocation, they also noted the lack of a legal requirement to do so, and Kigali City officials even stated that

⁴³ RSSB, RTDA.

⁴⁴ RTDA, Kigali City, MINALOC, RSSB, MININFRA, *Urugaga Imbaraga*.

providing such funds to expropriated individuals would be an embezzlement of public funds because it is not provided for in the law. RSSB noted that covering the costs of relocation should be the responsibility of the government, not the investor, and RTDA recommended that the district authorities lead the population in developing and carrying out the resettlement of households.

Some CSO respondents reported cases of non-compensation and inappropriate compensation, including no compensation for some partial expropriations undertaken for infrastructure development. ACORD reported that it has received multiple cases, particularly of partial expropriation for infrastructure development, such as roads and electric poles, that were not compensated at all.⁴⁵ ACORD also reported a specific case where an individual was partially expropriated for a road project that went about halfway through the house the family lived in on the property. Although the entire house was demolished to carry out the road project, the family was only compensated for the half of the house that overlapped with the road as planned—an amount that was not even enough to enable them to pay back the loan they had taken out to build the house. This family is reportedly now without adequate funds to purchase replacement housing, nor can they afford to rebuild on what remains of their plot of land.

2. Available Alternatives

While an overwhelming majority of respondents favored resettlement in lieu of cash compensation, not only for the immediate benefit of the expropriated individuals, but also to avoid future successive expropriations, most respondents did not suggest other categories of viable alternatives to expropriation. In fact, resettlement is not technically an alternative to expropriation given that it is contemplated as one of the types of compensation provided for under the law. The Mayor of Kigali City reported that expropriation is only used as a last option, although without a requirement that expropriating entities investigate potential alternative projects and sites, it is unclear how this claim can be confirmed. Both Kigali City and IPAR also suggested increased promotion of multi-storied developments as a potential option, with only MINALOC and one CSO suggesting real estate developers come up with solutions for incorporating original property owners into at least a small part of new multi-story buildings. These suggestions accompany multiple recommendations by respondents that landowners be allowed to negotiate directly with private investors. Some CSOs even suggested a renewed interest in the *imidugudu*/shelter program to increase planned and organized land use and avoid multiple expropriations in the future.

3. Outcomes on the Population

Infrastructure development and improved public planning undertaken through expropriation has led to noted satisfaction with expropriation among some expropriated individuals.⁴⁶ The general sentiment among expropriated individuals interviewed to date is one of clear support for national development plans and economic progress, even if it comes through expropriation. Their major concern is simply adequate compensation allowing them to resettle and continue their normal lives. Individuals expropriated by private investors also reportedly experience high levels of satisfaction with the expropriation process due to better

⁴⁵ Other CSOs in the 16/01/15 FGD noted as well that some land is taken without compensation for installing electric poles, water pipes, and the *imidugudu*/shelter program. Land taken for the *imidugudu* shelter project was particularly mentioned as concerning the land of the genocide orphans.

⁴⁶ Bugesera FGD, 21/01/15, Batsinda FGD, 21/01/15.

compensation and quicker timetables for receiving compensation and completing the process.⁴⁷ Furthermore, the prevalence of reported environmental impact assessments suggests continued sensitivity toward environmental concerns in Rwanda's economic development and land use planning. However, MINALOC reported, "There is no thorough study done before or during the implementation of the project on the impact it has on livelihoods." One MINALOC official also noted "some institutions think about the project, its implementation, and what it will take to achieve it, but fail to remember that there will be people to expropriate where the project is implemented." MINALOC sees itself as a coordinating body, overseeing the work of local authorities who would be advocates for local populations, but given MINALOC's own admission of corruption and incompetence of local authorities, it remains unclear how effective, if at all, this oversight and coordination is at protecting the livelihoods of local populations.

While some government agencies laud the Kiyovu/Batsinda project as a great success, some residents had a different view. Many of them found that the two-room homes provided in Batsinda were too small for their large families. Others found their economic opportunities diminished after being moved from the city center to the outskirts of the city. One woman reported: "I was a widow at the time of the expropriation. I used to clean the roads in the City of Kigali and lived on income earned from this job. I earned RWF 18,000 per month. As a result of expropriation, we relocated here to Batsinda. I failed to walk to the City because I'm too weak to walk such a long distance. I lost my job and got poorer. Until now, I was not able to pay back the money I borrowed from my friend in order to afford the cost of my move from Kiyovu to Batsinda." Other residents echoed her concerns: "We were in Kiyovu, an area almost downtown. We never needed to pay transport to go to church, to the market, to the hospital, or to school. We simply used to walk as it was very close to our place. There is no way to compare [Kiyovu to Batsinda]." While it must be noted that this particular expropriation project was carried out before the adoption of the 2007 law, it is used as a model for successful expropriation by some public institutions. Despite adoption of Batsinda as a model, no systematic study of the outcomes of resettlement on this population has yet been carried out.

The plight of Bugesera residents still awaiting their compensation is also a serious warning about the perils of poor application of the procedural requirements in the expropriation law. Due to extreme delays in receiving compensation or replacement housing, residents reported being homeless, hungry, and under constant threat of theft of their remaining earthly possessions. The local school has already been demolished, so most children of respondents have had to quit attending school now. They also reported problems accessing healthcare and markets, transportation, being separated from family members already moved, and estranged from friends who have lent them money. They also regularly incur bank charges on the accounts the government required them to open to accept their compensation, to the extent that is likely to eclipse the minimal compensation they have been awarded after having sat empty for almost three years. One woman was reportedly raped just weeks before this report was drafted in the open, now-deserted area around her own house when she went out to collect firewood.

⁴⁷ CSO FGD, 16/01/15.

IV. CONCLUSION

As part of the qualitative component of this research, key informant and focus group respondents provided a variety of views and opinions on the expropriation process and outcomes in Rwanda. What is perhaps most striking about the findings is the general consensus about the most problematic aspects of the expropriation process across different institutional categories. While CSOs, coordinating entities, expropriating entities, and expropriated individuals have different ways of expressing these concerns, they generally agree that issues of valuation, delays in compensation, and the problems of poor planning and coordination are of paramount concern. As some of the procedural problems are presumably being addressed through improved implementing measures in the new draft law, the evidence revealed in this report on other problematic areas may be a catalyst for future change and improvement in the expropriation procedures.

The qualitative data contained herein must also be complemented by data from local authorities, who are frequently identified as the source of many of the problems in the expropriation process. Accordingly, once Sectors are identified for the national survey of expropriated households, FGDs with local officials will be held in those areas to provide a more complete picture of the process and changes needed to facilitate improvements.